

under section 408, including the issuance of a certificate of registration if registration is made, \$10;

“(2) on filing each application for registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, \$6;

“(3) for the issuance of a receipt for a deposit under section 407, \$2;

“(4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document of six pages or less, covering no more than one title, \$10; for each page over six and each title over one, 50 cents additional;

“(5) for the filing, under section 115(b), of a notice of intention to make phonorecords, \$6;

“(6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, \$10 for a document of six pages or less, covering no more than one title; for each page over six and for each title over one, \$1 additional;

“(7) for the issuance, under section 601, of an import statement, \$3;

“(8) for the issuance, under section 706, of an additional certificate of registration, \$4;

“(9) for the issuance of any other certification, \$4; the Register of Copyrights has discretion, on the basis of their cost, to fix the fees for preparing copies of Copyright Office records, whether they are to be certified or not;

“(10) for the making and reporting of a search as provided by section 705, and for any related services, \$10 for each hour or fraction of an hour consumed;

“(11) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service.”

Subsecs. (b) to (d). Pub. L. 101-318, §2(b), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

1982—Subsec. (a)(1). Pub. L. 97-366, §1(1), substituted provision for a \$10 fee on filing each application for registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration if registration is made, for provision for a \$10 fee for the registration of a copyright claim or a supplementary registration under section 408, including the issuance of a certificate of registration.

Subsec. (a)(2). Pub. L. 97-366, §1(1), substituted provision for a \$6 fee on filing each application for registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration if registration is made, for provision for a \$6 fee for the registration of a claim to renewal of a subsisting copyright in its first term under section 304(a), including the issuance of a certificate of registration.

Subsec. (c). Pub. L. 97-366, §1(2), struck out provision that, before making a refund in any case involving a refusal to register a claim under section 410(b), the Register could deduct all or any part of the prescribed registration fee to cover the reasonable administrative costs of processing the claim.

1977—Subsec. (c). Pub. L. 95-94 substituted provisions relating to crediting of all fees received, to the appropriation for necessary expenses of the Copyright Office, for provisions relating to crediting of all fees received in the manner directed by the Secretary of the Treasury.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-379, §3(c)(1), Oct. 27, 2000, 114 Stat. 1445, provided that: “The amendments made by this section [amending this section and sections 121 and 705 of this title and repealing section 710 of this title] shall take effect on the date of the enactment of this Act [Oct. 27, 2000].”

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-307 effective June 26, 1992, but applicable only to copyrights secured between January 1, 1964, and December 31, 1977, and not affecting court proceedings pending on June 26, 1992, with copyrights secured before January 1, 1964, governed by section 304(a) of this title as in effect on the day before June 26, 1992, except each reference to forty-seven years in such provisions deemed to be 67 years, see section 102(g) of Pub. L. 102-307, as amended, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 2(d) of Pub. L. 101-318 provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 704 of this title] shall take effect 6 months after the date of the enactment of this Act [July 3, 1990] and shall apply to—

“(A) claims to original, supplementary, and renewal copyright received for registration, and to items received for recordation in the Copyright Office, on or after such effective date, and

“(B) other requests for services received on or after such effective date, or received before such effective date for services not yet rendered as of such date.

“(2) PRIOR CLAIMS.—Claims to original, supplementary, and renewal copyright received for registration and items received for recordation in acceptable form in the Copyright Office before the effective date set forth in paragraph (1), and requests for services which are rendered before such effective date shall be governed by section 708 of title 17, United States Code, as in effect before such effective date.”

EFFECTIVE DATE OF 1982 AMENDMENT; TRANSITIONAL RULE

Section 2 of Pub. L. 97-366 provided that: “This Act [amending this section, section 110 of this title, and section 3 of Title 35, Patents] shall take effect thirty days after its enactment [Oct. 25, 1982] and shall apply to claims to original, supplementary, and renewal copyright received for registration in the Copyright Office on or after the effective date. Claims to original, supplementary, and renewal copyright received for registration in acceptable form in the Copyright Office before the effective date shall be governed by the provisions of section 708(a)(1) and (2) in effect prior to this enactment.”

EFFECTIVE DATE OF 1977 AMENDMENT

Section 406(b) of Pub. L. 95-94 provided that the amendment made by that section is effective Jan. 1, 1978.

CARRY-OVER OF EXISTING FEES

Pub. L. 106-379, §3(c)(2), Oct. 27, 2000, 114 Stat. 1446, provided that: “The fees under section 708(a) of title 17, United States Code, on the date of the enactment of this Act [Oct. 27, 2000] shall be the fees in effect under section 708(a) of such title on the day before such date of enactment.”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 104A, 205, 407, 408, 704, 705, 706, 908 of this title.

§ 709. Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other

transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

(Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594.)

[§ 710. Repealed. Pub. L. 106-379, § 3(a)(1), Oct. 27, 2000, 114 Stat. 1445]

Section, Pub. L. 94-553, title I, § 101, Oct. 19, 1976, 90 Stat. 2594, related to forms and procedures for granting the Library of Congress licenses to reproduce works for the blind and physically handicapped.

**CHAPTER 8—COPYRIGHT ARBITRATION
ROYALTY PANELS**

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| Sec. | |
| 801. | Copyright arbitration royalty panels: Establishment and purpose. |
| 802. | Membership and proceedings of copyright arbitration royalty panels. |
| 803. | Institution and conclusion of proceedings. |

HISTORICAL AND REVISION NOTES

HOUSE REPORT NO. 94-1476

Chapter 8 [this chapter] establishes a Copyright Royalty Commission for the purpose of periodically reviewing and adjusting statutory royalty rates for use of copyrighted materials pursuant to compulsory licenses provided in sections 111 (secondary transmissions by cable systems), 115 (mechanical royalties) and 116 (jukebox) of the bill. In addition, the Commission will make determinations as to reasonable terms and rates of royalty payments as provided in section 118 (public broadcasting), and to resolve disputes over the distribution of royalties paid pursuant to the statutory licenses in sections 111 and 116.

The Committee recognizes that the industries affected by the royalty rates over which the Commission has jurisdiction are very different, and it is therefore expected that any adjustment of a rate by the Commission shall be based on the economic conditions peculiar to the industries affected by that rate. Likewise, the Committee recognizes the fact that the cable television industry is a developing industry in transition, whereas the recording and jukebox industries are long-established. Therefore, the Committee has chosen periods of different lengths in which the Commission is to review the rates affecting those industries. Rates for retransmission of copyrighted works by cable television systems will be reviewed in 1980 and each subsequent fifth year. Rates established for mechanical reproduction will be reviewed in 1980, 1987, and in each subsequent 10th year. Rates for performance by jukebox will be reviewed in 1980, and in each subsequent 10th year. Rates and terms under section 118 will be reviewed in 1982 and in each subsequent fifth year. The Committee does not intend that rate changes, whether up or down, should necessarily be made as the result of such periodic reviews.

The Committee has chosen to stagger the times for review of the various rates established under the bill so as to balance the workload of the Commission. Cable and copyright owners agreed to a set of standards for the adjustment of rates which the Committee in large measure has accepted. No specific standards governing the establishment or adjustment of rates by the Commission, other than rates for cable transmissions, have been detailed in the legislation, because the Committee did not wish to limit the factors that the Commission might consider in a world of constantly changing economics and technology. However, it is anticipated that the Commission will consider the following objectives in determining a reasonable rate under sections 115 and 116:

(1) The rate should maximize the availability of diverse creative works to the public.

(2) The rate should afford the copyright owner a fair income, or if the owner is not a person, a fair profit, under existing economic conditions, in order to encourage creative activity.

(3) The rate should not jeopardize the ability of the copyright user—

(a) to earn a fair income, or if the user is not a person, a fair profit, under existing economic conditions, and

(b) to charge the consumer a reasonable price for the product.

(4) The rate should reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

(5) The rate should minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

Similar considerations are noted in connection with Commission review of rates and terms for public broadcasting in the discussion of section 118, above.

Structure of the Copyright Royalty Commission. The Senate bill provides that, upon certifying the existence of a controversy concerning distribution of statutory royalty fees or upon periodic petition for review of statutory royalty rates by an interested party, the Register of Copyrights, is to convene a three member panel to constitute a Copyright Royalty Tribunal for the purpose of resolving the controversy or reviewing the rates.

The Senate bill provides that the Tribunal be appointed by the Register from among the membership of the American Arbitration Association or similar organization. The Tribunal is to exist within the Library of Congress.

Due to constitutional concern over the provision of the Senate bill that the Register of Copyrights, an employee of the Legislative Branch appoint the members of the Tribunal, the Committee adopted an amendment providing for direct appointment of three individuals by the President. The name of the Tribunal was changed to the Copyright Royalty Commission.

Although under the Committee Amendment, the Commission is to be an independent authority, it is to receive administrative support from the Library of Congress.

The Commission is authorized to appoint a staff to assist it in carrying out its responsibilities. However, it is expected that the staff will consist only of sufficient clerical personnel to provide one full time secretary for each member and one or two additional employees to meet the clerical needs of the entire Commission. Members of the Commission are expected to perform all professional responsibilities themselves, except where it is necessary to employ outside experts on a consulting basis. Assistance in matters of administration, such as payroll and budgeting, will be available from the Library of Congress.

The Committee expects that the President shall appoint members of the Commission from among persons who have demonstrated professional competence in the field of copyright policy.

Adjustment of Cable Television Royalty Rates. Section 801(b)(2) authorizes the Commission to make determinations concerning the adjustment of the copyright royalty rates contained in Section 111. Such determinations are to be made solely in accordance with the provisions contained in Section 801(b)(2)(A), (B), (C), and (D). The time periods when such adjustments may be made are set forth in Section 804.

Under Section 801(b)(2)(A), the Commission may adjust the rates established in Section 111(d)(2)(B) [section 111(d)(2)(B) of this title] to reflect (1) national monetary inflation or deflation, or (2) changes in the average rates charged cable subscribers for the basic